

**NATIONAL ORGANIC STANDARDS BOARD  
MEETING SUMMARY  
February 28 – March 3, 2005  
The Washington Terrace Hotel  
Washington, DC**

The National Organic Standards Board (NOSB) meeting of February 28-March 3, 2005, was attended by 14 members:

**NOSB Members Present:**

James A. Riddle, Chair	Bea James
Kevin O'Rell, Vice Chair	Hubert Karreman
Goldie Caughlan, Secretary	Rosalie L. Koenig
Andrea Caroe	George Siemon
Rigoberto Delgado	Julie Weisman
Nancy Ostiguy (March 1 & 2)	
David Carter	Kim Dietz (guest)
Gerald Davis	Mark King (guest)
Michael P. Lacy	Rebecca Goldberg (guest)

**National Organic Program (NOP) Staff:**

Barbara C. Robinson, Agricultural Marketing Service Deputy Administrator; Richard H. Mathews, NOP Associate Deputy Administrator; Arthur Neal, Toni Strother, Mark Bradley, Francine Torres, Bob Pooler, Demaris Wilson, and Keith Jones

**OPEN SESSION – February 28, 2005, 9:00 a.m. - 5:00 p.m.**

**An orientation was held for new NOSB members from 9:00 a.m through 1:00 p.m.**

**Chair Jim Riddle called the meeting to order at 2:05 p.m.**

**Approval of the Meeting Agenda:**

The Board unanimously approved the meeting agenda.

**Announcements:** For more information regarding the announcements, see meeting transcripts

Dave Carter announced that he would be absent from meeting on the following morning to attend the U.S. Department of Mint issuance of a new bison nickel in commemoration of Lewis and Clark.

The Chair made announcements regarding the following: (1) Ann Cooper's resignation from the Board; (2) new members' orientation; (3) USDA total 2004 budget; and (4) procedural changes regarding voting, discussion, and deliberation proceedings.

**Approval of October 2004 Meeting Minutes Summary:** For more information, see discussion document.

Mr. Carter proposed several changes to the minutes; the Board unanimously approved the October 2004 meeting minutes.

**COMMITTEE PRESENTATION OF RECOMMENDATIONS AND ACTION ITEMS VOTES:** (For more information on committee presentations, see meeting transcripts and agenda)

**Compliance, Accreditation and Certification – Andrea Caroe, Committee Chair (Pg. 23):** Ms. Caroe reported on the committee agenda items, recommendations, and actions items for vote.

**Materials – Rose Koenig, Committee Chair (Pg. 26):** Ms. Koenig reported on the committee agenda items, recommendations and action items for a vote.

**Policy – Dave Carter, Committee Chair (Pg. 33):** Mr. Carter reported on the committee agenda items, recommendations, and action items for a vote.

## **NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY**

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 2 of 12

### **Executive Committee Conference Call Minutes (Pg. 44)**

The Chair stated for the record that the Executive Committee minutes would not be reviewed and approved by the full NOSB during this meeting; they are approved by the Executive Committee during the Exec calls. He mentioned that the NOSB was behind on approving most recent Exec call minutes because they had not been presented to them for review by the NOP.

### **Livestock – George Siemon, Committee Chair (Pg. 45)**

Mr. Siemon reported on the committee agenda items, recommendations, and action items for a vote. Mr. Neal reported that on January 24, the NOP called for nominations to the Aquatic Animals Task Force. The task force will be comprised of 24 individuals, divided into two working groups – Aquaculture and Wild Species. Nomination closed on February 23, 2005.

### **Handling – Kevin O'Rell, Committee Chair (Pg. 58)**

Mr. O'Rell reported on the committee agenda items, recommendations, and action items for a vote. Mr. Neal reported that on January 24, 2005, NOP called for nominations to the Pet Food Task Force. The task force will be comprised of 12 individuals. Nominations closed on February 23, 2005.

### **Crops – Nancy Ostiguy, Committee Chair (Pg. 66)**

Ms. Ostiguy was not available to give the report; therefore, Ms. Koenig provided a report on the committee agenda items, recommendations and action items for a vote.

### **NOP Update – Barbara C. Robinson, Deputy Administrator (Pg. 79-105) (See meeting transcripts for more information)**

Ms. Robinson provided an update on the following issues:

- The collaboration document for publishing in the Federal Register
- USDA's response to the four issues related to antibiotics, fishmeal, inerts, and NOP Scope document
- The Draft Collaboration Document
- NOP Federal Register Guidance Docket
- The Executive Director Position Announcement
- Harvey vs. Secretary Ann Veneman (USDA Circuit Court of Appeals Boston hearing)

### **NOSB Committee (Pg. 108) (For more discussions regarding the Board's membership, review the meeting transcripts)**

The Chair acknowledged the five new NOSB members (Gerald Davis, Rigoberto Delgado, Bea James, Hubert Karreman, and Julie Weisman), and reported the new composition of the NOSB committees.

### **End of Proceedings – February 28, 2005, at 6:30 p.m.**

### **OPEN SESSION – March 1, 2005 – 8:00 a.m. – Call the Meeting to Order – Jim Riddle, Chair**

### **PUBLIC COMMENT SESSION**

The following individuals presented public comments. Each person's comment was recorded and transcribed; and some individuals presented written comments. Transcribed comments, and where applicable written comments can be found at the **DESIGNATED ATTACHMENTS**.

Nathaniel Bacon, Organic Dairy Advisor, NOFA Vermont, (Pg. 10)

Clark Driftmier, Aurora Organic Proxy for Mark Retzliff, (Pg. 15)

Dr. Juan Valez, Director, Farm Operations for Aurora Organic Dairy, (Pg. 18)

George Wright, Organic Dairy Farmer, New York, (Pg. 29)

Robert Hadad, Director, Farming Systems for the Farm Animal and Sustainable Ag Section, (Pg. 36)

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 3 of 12

Harriet Behar, Organic Inspector, (Pg. 38)  
Mark Kastel, Co-Director, Cornucopia Institute, Proxy for William Welch and Merrill Clark, (Pg. 47)  
Blake Alexandre, Organic Dairy Farmer, (Pg. 58)  
Rich Ghilarducci, Humboldt Creamery Association, (Pg. 64)  
Nancy Gardner, Secretary, Northeast Organic Dairy Producers Alliance, (Pg. 67)  
Henry Perkins, Organic Dairy Farmer, Maine, (Pg. 71)  
Roman Stoltzfoos, Organic Farmer, Lancaster, PA, (Pg. 74)  
John Stoltzfoos, Organic Dairy Farmer, New York, (Pg. 78)  
James Gardner, Organic Dairy Farmer, New York, (Pg. 81)  
Urvashi Rangan, Scientist, Consumers Union, (Pg. 90)  
Dave Johnson, NODPA, (Pg. 96)  
Cathy Arnold, Dairy Producer, New York, (Pg. 105)  
Kevin Englebert proxy for Arden Landis, Organic Dairy Producer, New York, (Pg. 112)  
Kathleen Seus, Food Animal Concerns Trust (FACT), (Pg. 115)  
Cameron Wilson, Nordorf, (Pg. 120)  
Adam Eidinger, Organic Consumers Association (Pg. 128)  
Grace Marriquin, President, Merriquin International, (Pg. 131)  
Arthur Harvey, Organic Grower, (Pg. 138)  
Tom Hutchinson, Organic Trade Association (Pg. 141)  
Jim Pierce, Organic Valley Crop Cooperative, (Pg. 146)  
Jo Ann Baumgartner, Director, Wild Farm Alliance, (Pg. 150)  
Tom Miller, Organic Dairy Farmer, (Pg. 157)  
Tony Azevedo, Organic Farmer, (Pg. 161)  
Martin Saamson, Organic Farmer, (Pg. 165)  
Vanessa Bogenholm, Organic Grower, (Pg. 169)  
Diana Kay, Organic Farmer, (Pg. 173)  
Craig Weakley, Director, Organic Agriculture, and Sourcing for Small Planet Foods, (Pg. 176)  
Ed Zimba, Organic Dairy Farmer, (Pg. 181)  
Lyle Edwards, Organic Dairy Farmer, (Pg. 186)  
Jack Lazor, Organic Dairy Farmer, (Pg. 187)  
Richard Siegel, Attorney, (Pg. 191)  
Joe Smillie, (Pg. 198)  
Leslie Zuck, Executive Director Pennsylvania Certified Organic, (Pg. 204)  
Emily Brown-Rosen, Consultant, Organic Research Associates, (Pg. 209)  
George Kuepper, National Center for Appropriate Technology, (Pg. 216)  
Charles Flood, Organic Dairy Farmer, (Pg. 218)  
Marty Mesh, Executive Director, Florida Organic Growers, and Quality Certification Services, (Pg. 231)  
Diane Goodman, consultant (Pg. 240)

### *End of Public Comment*

### **Comments from Neil Blevins, Deputy Administrator for Compliance, Safety, and Security (Pg. 243-261))**

Mr. Blevins reported on the activities of the AMS Compliance office and its responsibilities regarding compliance and enforcement of the NOP.

### **NOP Update:** Richard H. Mathews, Associate Deputy Administrator, NOP (Pg. 261-268)

Mr. Mathews reported on accreditation regulations and audits of accredited certifying agents.

### **PRESENTATION OF COMMITTEE ACTION ITEMS (For more information, see the meeting transcripts)**

### **Accreditation, Certification and Compliance Committee – Andrea Caroe (Pg. 269-273)**

Ms. Caroe presented a draft document that talked about eight Accreditation, Certification, and Compliance committee recommendations regarding issuing certificates that are in compliance with the National Organic Program standards. After presentation of the draft document and recommendations, Ms. Caroe suggested tabling the

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 4 of 12

document back to the Committee for some additional language, based on public comments, and for presentation again on the following day.

### Livestock Committee – George Siemon

#### *Clarification Guidance Document for Chelated Mineral Compounds (Pg. 274-278) (See Discussion Document)*

The Livestock Committee sought to clarify the use of proteinated chelates in organic livestock production. Mr. Siemon reported that the committee made recommendations to NOP to post questions and answers as guidance to producers, manufacturers, consumer, and accredited certifying agents concerning the use of these substances. The Livestock Committee recommended that proteinated chelates are allowed for use in organic livestock production, however, not all formulations may be use because prohibitions stated in sections 205.105(e) and 205.237(b)(5). Mr. Siemon made a motion to adopt a draft recommendation on chelated mineral compounds. Ms. Ostiguy seconded.

**Vote Passes: 12 Yes, 0 No, 2 Abstentions**

#### *Calcium Carbonate in Livestock Feed (Pg. 278-281) (See Discussion Document)*

The Livestock Committee presented for clarification the following recommended questions and answers of whether a manufacturer of calcium carbonate as a feed additive to organic livestock can carry the organic label. The Livestock Committee recommendation is that calcium carbonated is a nonsynthetic substance and is allowed for use a feed supplement or feed additive. However, according to NOP regulation, section 205.2, calcium carbonate is not an agricultural product, and does not qualify to carry the term “organic.”

Mr. Siemon moved to adopt the recommendation for posting as a guidance document, and Ms. Ostiguy seconded.

**Vote Passes: 14 Yes, 0 No, 0 Abstentions**

#### *D.L. Methionine (Pg. 281-309) (See Discussion Document)*

The Livestock Committee presented two recommendations for NOSB consideration. The first recommendation would extend the use of synthetic DL-Methionine in organic poultry production until October 1, 2008, and will provide time for the completion of research concerning viable alternatives. The second recommendation included a temporary variance petition for the allowance of the use of non-organic feed ingredients for organic poultry production for research purposes submitted by the petitioners, and requires immediate and full disclosure of research findings and expires October 1, 2008. However, the committee recommended rejection of the request because they could not support a request to feed non-organic feed to birds labeled and sold as organic. Mr. Lacy moved that the Board accept both recommendations, and Ms. James seconded. However, Ms. Caroe object, stating that the two issues were separate recommendations, and Mr. Lacy removed the motion and Ms. James removed her second.

Mr. Lacy made a motion to replace the current annotation on DL Methionine with a new date of October 1, 2008. Ms. Ostiguy seconded. Mr. Delgado expressed a potential conflict of interest because he will be setting up some poultry operations and would use feed that contains methionine. Mr. Siemon expressed a conflict of interest because his company is the petitioner and he owns a poultry operation. It was determined that Mr. Delgado would not profit from the vote, therefore, it was not necessary to recuse himself from the vote. Since Mr. Siemon’s company submitted the petition, it was determined that he should recuse himself. **Vote Passes: 11 Yes, 0 No, 2 Abstentions, 1 Recusal.** Mr. Lacy made a motion to deny the temporary variance for allowance of the use of non-organic feed for research purposes. Ms. Ostiguy seconded. For clarification, the motion was to reject the request for a variance.

**Vote Passes: 13 Yes, 0 No, 0 Abstentions, 1 Recusal**

#### *Access to Pasture Recommendation (Pg. 310-339) (See Discussion Document)*

The Livestock Committee presented its recommendation for access to pasture, and stated that the committee wanted to table the vote until the following day because of recent changes and for further review of the public comments. However, the committee recommendation was to propose three rule changes to the language to sections 205.239(a)(1) and 205.239(b)(2) referencing “stage of production” regarding access to outdoors and temporary confinement. Section 205.237(b)(2) refers to the terminology “stage of life” to describe the allowance for specific levels of feed supplements or additives. The committee intends to recommend a rule change to make the language in sections 205.239(a)(1) and (b)(2) consistent with 205.237(b)(2).

### Policy Development Committee – Dave Carter (See Discussion Document)

## **NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY**

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 5 of 12

Mr. Carter stated that the Policy Committee forwarded to the NOP its recommendation for collaboration; the NOP forwarded to Office of General Counsel and is still waiting for a response, however, Ms. Robinson informed the Board that she did not anticipate any substantial changes to document.

### ***Livestock Medications Recommendation by NOSB, Not Approved by FDA (Pg. 341-350) (See Discussion Document)***

Mr. Carter reported that NOP informed the NOSB that the livestock medications, which were not formally approved by FDA, could not be put on the N.L. However, according to the Directives from the October meeting, and in cooperation with the Livestock Committees, the committees addressed potential options to review six specific areas.

Mr. Carter also talked about the importance of laying the groundwork and urging cooperation between USDA and FDA for communication and effective action that must occur between officials with the two agencies. Therefore, the committees came up with a fourfold recommendation to place NOSB-recommended substances on section 205.603 of the N.L.

The committees made the following recommendation for USDA and FDA to pursue further clarification at higher levels of USDA and FDA to facilitate co-existence of NOP and FDA regulatory processes for the listing of unapproved medications and other substances recommended by the NOSB. NOP should pursue rulemaking to create a National List category in section 205.603 of “production aids” with reference to specific use; USDA should investigate FDA recognition of “organic livestock production” as a “minor species/minor use” category; and NOP should review all recommended materials to more accurately place them in categories consistent with FDA regulation. The Policy Development and Livestock Committees recommended to start communications at the top levels between USDA and FDA for coordination to carve out some of the specific things that might help them to address the 10 issues individually that were formally approved or recommended. Mr. Carter made a motion, and Ms. Ostiguy seconded. **Vote Passes: 14 Yes, 0 No, 0 Abstentions**

### **End of Proceedings – March 1, 2005, at 6:30 p.m.**

OPEN SESSION – March 2, 2005 – 8:00 a.m. – Call the Meeting to Order – Jim Riddle, Chair

### **Report Presentation (Pgs. 4-18) (See Discussion Document)**

*Mr. Michael Norman, Association of American Plant Food Control Officials.* Mr. Norman presented a slide presentation and an update on the AAPFCO Labeling Committee Meeting, regarding organic fertilizer labeling issues.

## **PRESENTATION AND CONSIDERATION OF COMMITTEE ACTION ITEMS**

### **Policy Development Committee – Dave Carter (Pg. 18 -20)**

Mr. Carter discussed a request that the Policy development committee had presented to the NOP concerning the use of the word, “organic” in the AAPFCO-approved fertilizer labels. The committee voted to take the current draft of this recommendation off the table, with the understanding that they will develop a new proposal before consideration by the Executive Committee prior to the next meeting of AAPFCO in early August, and will provide input by April 21. He also stated that they would need the Executive Committee input on the NOP’s procedures for developing, issuing, and using guidance documents for consideration by April 4.

### ***Board Policy Manual Revisions (Pgs. 20-38) (See Discussion Document)***

Mr. Carter stated that during the October meeting, the Policy Development committee agreed to get feedback from NOP on the Board’s Policy and Procedures Manual and make sure that what the Board’s manual actually contains and helps the Board to work with NOP. He stated that Ms. Robinson did an extensive and thorough job of reviewing and providing feedback to the committee. He reported on the formatting changes to the NOSB mission statement. The committee received feedback on the policies for surveys, and said that it was the source of some conflicts, and the manual clearly states that before seeking approval from USDA, the surveys will have to go through OMB. He reported on the update to the materials review process, and information on TAP procedures were

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 6 of 12

included on how to bring on a TAP contractor, with new timeline procedures for completion of TAP reviews. Finally, the presentation included procedures on the evaluation criteria, the material review process, an appendix for the decision-making for NOP, a brief summary of the FACA facts for citizen advisory committees, and a cliff notes version of parliamentary procedures.

After presentation and discussion of the recommended changes to the Board policies and procedures manual, Mr. Carter made a motion to adopt the updated version as presented. Ms. Caughlan seconded. Ms. Caroe offered a friendly amendment that the approval be contingent upon Ms. Koenig's verification that information on the TAP procedures is accurate. Mr. Carter and Ms. Caughlan accepted the amendment as a part of the original motion.

The Chair also stated, for the record, that the cover sheet would go with any final recommendation. He stated that once a recommendation has been amended to take a final action, the committees' chairs are responsible for the final version, resubmitting the cover sheet that summarizes the topic and recommendation; however, it doesn't replace the detailed recommendation. Ms. Robinson suggested to the Board to consider a format included in the policy manual. Ms. Caroe offered to amend the motion to include the cover sheet format for making formal recommendations. Ms. Ostiguy seconded. The Chair stated that he wanted to have a separate vote just on the amendment, which is an amendment to Mr. Carter's motion to focus on the content of the cover sheet. **Amendment Passes: 12 Yes, 0 No, 2 Absents, 0 Abstentions** Mr. Carter provided a background history on the development of the document and stated that this will eliminate confusion between the Board and NOP regarding procedures for TAP contracts and the use of the form. The full Board unanimously approved to add to the Board policy manual and for voting at the next meeting. **Vote Passes: 12 Yes, 0 No, 2 Absents, 0 Abstentions**

### *Handling of Organic and Non-Organic Ingredients in "Made With" Products (Pgs. 38-47)*

Mr. Carter reported on the committee recommendation for a rule change in 205.301. The committee recommended a rule change because the regulations currently allow products that contain at least 70 percent organically produced ingredients to include organic and non-organic versions of the same ingredient. The committee determined that language in 205.301(c) is in conflict with 205.301(f). To resolve the conflict the committee recommended adding language to section 205.301(c) that emphasized, no product labeled as "made with" may include organic and non-organic forms of the same ingredient. The Chair stated that they received a comment from Emily Brown-Rosen to insert the word "agricultural after non-organic, to read "non-organic agricultural ingredients." Ms. Caroe offered a friendly amendment to add the word "agricultural." Mr. Carter accepted the friendly amendment to add "agricultural." Ms. James seconded. **Vote Passes: 14 Yes, 0 No, 0 Abstentions, 0 Absents**

### Accreditation, Certification, and Compliance Committee – Andrea Caroe

#### *Information on Certificates (Pgs. 49-54)*

Based on public comments received the previous day, the committee made changes to the draft recommendation for information to be included on certificates for organic operation. The changes made to the draft recommendation include language that would recommend certificates to include the labeling category for which a product has been approved and language that would require certifying agents to use "most recent annual update." Ms. Caroe made a motion to approve the recommendation as presented. Ms. Caughlan seconded. **Vote Passes: 11 Yes, 0 No, 2 Abstentions, 1 Absent**

### Handling Committee – Kevin O'Rell

#### *Status of Albumen for use in the Clarification process during organic winemaking Q&A Recommendation (Pgs. 54-80)*

Mr. O'Rell presented the Handling Committee's response to a question from NOP regarding whether Albumen is allowed for use in the clarification process during organic winemaking under the current regulation. The Handling Committee advised NOP that albumen needed to be petitioned. The committee stated there was not enough information provided to determine if the albumen in question was agricultural or non-agricultural.

However, section 105.105(c) prohibits the use of non-agricultural substances used in or on products, except provided in 205.605. Section 205.105(b) prohibits the use of non-organic agricultural products used in or on the processed products, except provided for in 205.606. Albumen does not appear on the N.L.; therefore, it needed to be

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 7 of 12

petitioned. Mr. O'Rell made a motion that the ingredient, albumen, should be petitioned. Ms. Caroe seconded. Ms. Koenig offered to amend the motion with a sentence saying, "organic albumen would not need to be petitioned, and organic albumen would be allowed by definition." Mr. Karreman seconded. Mr. O'Rell and Ms. Caroe accepted the friendly amendment. **Vote Passes: 14 Yes, 0 No, 0 Abstentions, 0 Absents**

### *Tea Calculation Q&A to provide input to NOP concerning the calculation of percent organic ingredients for the manufacture of organic tea (Pgs. 83-104)*

The Handling Committee sought to answer questions submitted by the NOP from a manufacturer of an organic tea beverage who wanted clarification on how to calculate the percentage of organic ingredients for tea products. Ms. Weisman reported that the leaves are brewed in water and removed, and then added to the brew are organic sugar, a natural flavor, and citric acid. In a situation where there's a product that has a standard of identity, a multi-ingredient product, the NOP will not override that standard of identity that's been set out by some other federal agency. The tea product does not have a standard of identity, and the committee referred to section 205.302. The committee recommended that the manufacturer would need to go to the dry weight of the tea leaves at formulation in calculating the product.

Ms. Weisman made a motion to accept the committee recommendation to calculate the percentage of organic ingredients, the manufacturer uses the dry weight of the tea leaves as the amount of tea in the final product, and the recommendation is "yes". The second part: or does the manufacturer use the flavor infused from the tea leaves or some other measurement as the amount of tea in the final product, and the answer is "no". Ms. Caroe seconded. **Vote Passes: 11 Yes, 1 No, 2 Abstentions, 0 Absent.** Ms. Weisman presented committee recommendation to question 2 under the subject of calculation for tea, to calculate the percentage of organic ingredients, does the manufacturer include or exclude the amount of water used to formulate the final product. She stated that according to 205.302(a), there is a consistency between formulation and finished product – it's the same. Ms. Weisman made a motion on the committee's determination that water be excluded in calculating the percentage of organic ingredients to formulate the final product. Ms. Caroe seconded. **Vote Passes: 14 Yes, 0 No, 0 Abstentions, 0 Absents.**

### *Bitter Orange Q&A (Pgs. 104-111)*

The NOP requested the NOSB to provide advice to an inquiry on whether a combination of individual substances (Bitter orange, Citric acid, Malic acid, Ascorbic acid, Glycerin, and De-mineralized water) needed to be petitioned to be used in organic handling. In response to NOP's request for advice and the information provided in the request concerning the ingredients of formulated substance, Mr. O'Rell made a motion for the NOSB to advise the NOP to tell the inquirer that, of the individual ingredients included in his product formulation, the bitter orange ingredient would need to be petitioned for inclusion on the National List. Mr. O'Rell stated that the committee did not have enough information concerning the manufacture of the bitter orange to make a sound determination concerning its status. However, he did note that if there was a certified organic source of the bitter orange substance, it could be allowed for use in organic handling without having to appear on the National List. Ms. Caroe seconded. **Vote Passes: 9 Yes, 0 No, 4 Abstentions, 1 Absent.**

### *Retail Certification Q&A (Pgs. 111-132)*

The NOP requested the NOSB to provide advice regarding an inquiry that sought clarification on the certification of retail establishments and identifying the proper certifying agent of record on the labels of products that have been produced under contract for the retail establishment by another certified operation. Mr. O'Rell presented the draft response from the Handling Committee concerning the issue. Much discussion was generated and Ms. Caroe made a motion, based on NOSB deliberations, to redirect the first inquiry, of the NOP request for advice, back to the Handling and Certification, Accreditation, and Compliance Committees. Nancy Ostiguy seconded. **Vote Passes: 13 Yes, 1 No, 0 Absent, 0 Abstentions.** Mr. O'Rell made a second motion to send questions 2 and 3 of the NOP request back to the Handling and Certification, Accreditation, and Compliance Committees for re-consideration. Nancy Ostiguy seconded. **Vote Passes: 14 Yes, 0 No, 0 Absent, 0 Abstentions.**

### Materials Committee – Rose Koenig

#### **Materials Review Process (Pgs. 135-150)**

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 8 of 12

Ms. Koenig presented an overview of the revised internal procedures for facilitating the National List materials review process.

### Livestock Committee – George Seimon

#### *Access to Pasture Recommendation (Pgs. 152-175)*

Mr. Karreman presented the Livestock Committee's recommendations for amending the NOP "Livestock living conditions" regulations to address NOSB concerns regarding use of the term "stage of production" in section 205.239(a)(1) and 205.239(b)(2). The Livestock Committee believed that use of the term "stage of production" created ambiguity regarding the applicability of specific provisions to the animal's stage of life. Mr. Karreman made a motion to recommend that the NOP amend the language in 205.239(a)(1) and 205.239(b)(2) to make it more consistent with the language in 205.237(b)(2), by replacing the terms "stage of production" with "stage of life." Mr. Carter seconded. **Vote Passes: 13 Yes, 0 No, 1 Absent, 0 Abstentions.**

Mr. Karreman presented a draft recommendation to amend 205.239(a)(2) to clarify the requirement for providing ruminants "access to pasture." Mr. Karreman made a motion that the NOSB accept the recommendation to delete the use of the terms "Access to pasture for ruminants" that currently exists in 205.239(a)(2) and replace it with the following language:

§205.239(a)(2) ~~Access to pasture for ruminants~~ Ruminant animals grazing pasture during the growing season.

This includes all stages of life except:

a) birthing; b) dairy animals up to 6 months of age<sup>1</sup> and c) beef animals during the final finishing stage, not to exceed 120 days<sup>2</sup>. Note: Lactation of dairy animals is not a stage of life under which animals may be denied pasture for grazing.

Ms. Ostiguy seconded the motion made by Mr. Karreman. The motion passed. **Vote: 13 Yes, 1 No, 0 Abstentions, 0 Absent.**

#### *Draft Guidance Document (Pgs. 175-216)*

Mr. Karreman reported on the revised Livestock Committee draft recommendation for the guidance concerning the pasture requirements of the NOP regulations. After much deliberation, Mr. Karreman made a motion that the Livestock Committee's recommendation for providing guidance on the NOP's pasture requirements be posted on the NOP website to receive further input from the public. Ms. Ostiguy seconded the motion. The motion passed. **Vote: 11 Yes, 3 No, 0 Abstentions, 0 Absents.**

### Materials Committee – Rose Koenig

#### *Materials Review Process (Pgs. 219-227)*

Ms. Koenig made a motion for the NOSB to adopt the materials review process as an amendment to the Board policy manual to update that section of the Board policy manual. Ms. Ostiguy seconded. **Vote Passes: 13 Yes, 0 No, 1 Absent, 0 Abstentions.**

#### *Draft 3, NOSB Internal Working Document (Pgs. 227-253)*

Ms. Koenig presented, on behalf of the Materials Committee, a draft document that outlined NOP and NOSB responsibility with respect to facilitating the Sunset review process for the National List. Ms. Koenig noted that a Federal Register notice would be posted for a public comment period and the NOP would provide copies of the comments to the Board for review. The NOP stated that it will target 5-day turn-around for receiving and posting comments onto the website for NOSB access. Ms. Koenig clarified that it will be the responsibility of the committee chairs and members to begin the process of reviewing the comments, and begin to schedule committee conference calls to address issues regarding the comments received.



## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 9 of 12

Ms. Koenig made a motion for the Board to accept the proposed Sunset review document as the internal working procedures of the Board. Ms. Ostiguy seconded. The motion passed. **Vote: 14 Yes, 0 No, 0 Abstentions, 0 Absents**

### *Synthetics vs. Non-Synthetics Discussion (Pgs. 253-270)*

Ms. Koenig presented a draft document to the NOSB that outlined issues, terms, and fundamental chemistry principles and theories (Basic Chemistry 101) that could be utilized when conducting evaluations of petitioned substances and making determinations on whether the substance is synthetic or non-synthetic. She introduced the document for discussion purposes only. Many members expressed their approval of the intent for the draft document; although, they believed that more work was needed. Ms. Ostiguy made a motion for the NOSB to consider adopting the “Basic Chemistry 101 portion of the Materials Committee’s draft and including it in the NOSB Board policy manual to provide Board members an additional resource for the National List review process. Ms. Caughlan seconded. The motion failed. **Vote: 4 Yes, 10 No, 0 Abstentions, 0 Absents.** After discussion, it was concluded that the Handling Committee would review the entire draft document for re-consideration at the next NOSB meeting.

## MATERIALS SUBSTANCE ACTION ITEMS:

### *Soy Protein Isolate (Pg. 281)*

Ms. Ostiguy reported that the Crops Committee agreed to defer on making a recommendation concerning the petition to allow the use of Soy Protein Isolate in organic crop production. She noted that the Crops Committee wanted to ensure that, before they take action on the Soy protein isolate petition, clear guidance/procedures had been established and adopted by the NOSB to determine when a petitioned substance is synthetic or nonsynthetic. **SOY PROTEIN ISOLATE PETITION DEFERRED**

### *Ammonium Bicarbonate (Pg. 282)*

Ms. Ostiguy reported on the status of the Ammonium bicarbonate petition. She informed the NOSB that until clear guidance/procedures had been established and adopted by the NOSB to determine when a petitioned substance is synthetic or nonsynthetic, the Crops Committee would defer making a recommendation to the full NOSB concerning the use of Ammonium bicarbonate in organic crop production. **AMMONIUM BICARBONATE PETITION DEFERRED**

### *Ferric Phosphate (Pgs. 283-287)*

Ms. Ostiguy presented the Crops Committee recommendation concerning the use of Ferric phosphate in organic crop production. Ferric phosphate was petitioned for use as a molluscicide. Ms. Ostiguy noted that Ferric phosphate occurs naturally in the soil as a mineral; however, due to the manufacturing process of the petitioned substance, it would be considered synthetic. Ms. Ostiguy acknowledged that public comments were helpful to the committee in reviewing the petitioned substance and identifying that the alternative methods referenced in the technical evaluations were not realistic. Ms. Ostiguy made a motion for the NOSB to allow the use of Ferric phosphate in organic crop production with the annotation that it only be allowed for use as a molluscicide. Ms. Koenig seconded the motion made by Ms. Ostiguy. Ms. Caroe offered a friendly amendment to Ms. Ostiguy’s motion by suggesting the proposed annotation be stricken, due to the fact that 205.601(h) is reserved in the National List for slug or snail bait, the same use for which Ferric phosphate was petitioned. Therefore, the annotation would be unnecessary. Ms. Ostiguy and Ms. Koenig accepted Ms. Caroe’s amendment and the NOSB voted on the amended motion. The motion passed. **Vote: 10 Yes, 0 No, 2 Abstentions, 2 Absent.**

### *Use of Compost and Compost Tea Report (Pg. 287)*

Ms. Ostiguy informed the NOSB that the Crop Committee had not completed its work on providing additional guidance on the use of compost and compost tea, including questions and answers, and would expect to have a draft ready for NOSB consideration at the next NOSB meeting. **No Action**

### *Guidance on “Commercially Available” Organic Seed Requirements (Pg. 288)*

## NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 10 of 12

Based upon the public comments, the draft recommendation was referred back to committee to take into account all the public comments. **No Action**

### *Maintaining or Improving Natural Resources (Pgs. 289-300)*

Ms. Ostiguy made a motion for the Board to accept the proposed enhancements made to the natural resource component of the NOSB's sample organic system plan, with the understanding that ATTRA would revise the format provided and that ATTRA's revised format will come back to the Board for a final consideration. Mr. Davis seconded. **Vote Passes: 14 Yes, 0 No, 0 Absents, 0 Abstentions.**

### *Waxed Boxes – Q and A (Pgs. 300-308)*

Ms. Ostiguy presented advice to the NOP, on behalf of the Crops Committee, concerning an inquiry to clarify whether boxes that have been coated with a synthetic wax can be used to package an organic crop. Ms. Ostiguy reported that the committee agreed that a box may be coated with a petroleum-based or a synthetic wax. She asserted that section 205.272(b)(1) prohibits the use of packaging materials that contain synthetic fungicides, preservatives, or fumigants and that the allowance of nonsynthetic carnauba and wood resin waxes, in 205.605(a), applies to waxes that are directly applied to produce, not to waxes used on produce boxes. She further stated that certifiers allow the use of waxed produced boxes without concern as to the source. Ms. Ostiguy made a motion for the NOSB to accept the Crops Committee position as advice to be recommended to the NOP. Mr. Lacy seconded the motion. Ms. Caroe offered a friendly amendment to change the word "produce" to "product," in case there would be an opportunity for a processed food to be packaged in a waxed box. Ms. Ostiguy and Mr. Lacy accepted the amendment. **Vote Passes: 12 Yes, 0 No, 2 Abstentions, 0 Absent.**

### **End of Proceedings – March 2, 2005, 6:15 p.m.**

OPEN SESSION – March 3, 2005 – 8:00 a.m. – Call the Meeting to Order – Jim Riddle, Chair

The Chair opened up with discussion of committee work plans, priorities and timelines. Crops, Livestock and Handling Committees should continue prioritizing review of materials for Sunset.

### **Crops Committee – Nancy Ostiguy**

- Review Of Materials For Sunset
- Recommendations For The Board To Consider The Use Of Compost And Compost Tea
- Commercial Availability Of Seed
- Soy Protein Isolate
- Ammonium Bicarbonate
- Hydroponics

### **Handling Committee – Kevin O'Rell**

- Synthetic Vs. Non-Synthetic Recommendations To Work With The Materials Committee Regarding The Review And Recommendation For The Clarification Of Synthetic As It Applies To Substances Petitioned For The Addition Or Prohibition To The National List.
- Agriculture Vs. Non-Agricultural Issues
- To Provide Guidance Clarification Of Current 205.2 Definitions
- Recommendation For The Reclassification Of Yeast Currently Listed On 205.605(A)
- Sunset Material
- To Work With Compliance, Accreditation And Certification Committee To Make A Recommendation For The Retail Certification Question That Came From NOP
- Pet Food Task Force
- Review Of Petitioned Substances As Needed
- Review Succession Plan For Future Handling Committee Leadership

### **Livestock Committee – George Siemon**

- Aquatic Task Force
- Apiculture Standards Feedback
- Access To Pasture Recommendation Rule Change

## **NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY**

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 11 of 12

- Dairy Replacement Recommendation
- Review Of Materials For Sunset
- Discuss The Methionine Task Force
- Fiber-Bearing Standards
- Review Succession Plan For Future Livestock Committee Leadership
- Response To The Law Suit

### **Policy Committee – Dave Carter**

- The Development for Distribution to the Board
- A Formal Response to the Good Guidance Policy Federal Register Notice Pending Receipt Of The Collaboration Document
- To Develop For Distribution a Follow-Up Letter to AAPFCO regarding the Organic Fertilizer Labeling Issue
- To Work in Cooperation with the Crop and Livestock Committees to Develop a Draft guidance on Temporary Variances for Research
- Board Policy Manual Revisions
- To Provide follow-up on the Issues regarding the Executive Director, and the Handling of the Livestock Medications Materials and the “Made With” Issue – the Organic vs. Non-Organic
- To Work on Developing Procedures to Handling Q & A that NOP Submits for the Policy Manual

The Chair stated for the record that Bea James would be on the Policy Committee. The Handling Committee should work with the Policy Committee to consider working on the draft document for the criteria and procedures for commercial availability determinations for substances petitioned for placement on 606.

### **Materials Committee – Rose Koenig**

- Recommendations for Synthetics vs. Non-Synthetics
- Recommendation on to Develop a Technical Advisory Panel for the Materials Process
- Re-Organization of a List Based on OFPA Criteria for Livestock
- List of Materials for Non-Synthetics

### **Accreditation, Certification and Compliance – Andrea Caroe**

- Work on Collaboration with the NOP Procedures for the Peer Review Process
- Work with the Handling Committee Retail Certification Questions
- Review the American National Standards Institute (ANSI) Report and Response

## **OTHER ITEMS**

Ms. Robinson presented Service and Completion awards to the following outgoing members: Mark King, Becky Goldberg, Kim Dietz, and Owusu Bandele

Ms. Robinson presented Appointment Certificates to the following incoming members: Gerald Davis, Bea James, Rigoberto Delgado, Julie Weisman, and Hubert Karreman.

## **NEXT MEETING**

The Board identified one window of August 16-17 for the upcoming meeting; and based upon Ms. Robinson suggestion members will forward a calendar to her with available dates for a September or October NOSB meeting.

The Chair passed around a cover sheet for recommendations. A number of drafts were voted on with amendments and it's the committee chairs who will make those final revisions. Chairs need to fill out the recommendation cover sheets to submit to Arthur Neal for posting. Mr. Neal stated that all of the cover sheets should have signatures. Mr. Riddle will review the finals, and sign off before submitting to NOP.

## **PUBLIC COMMENTS (continued)**

Julia Sabin, General Manager, Smucker Quality Beverages, (Pg. 36)

Wendy Swan, Animal Welfare Institute, (Pg. 39)

Steve Protanic, National Chicken Council, proxy for Dr. Clothe, (Pg. 45)

## **NATIONAL ORGANIC STANDARDS BOARD MEETING SUMMARY**

February 28 – March 3, 2005, The Washington Terrace Hotel

Page 12 of 12

Kim Dietz, former NOSB Board Member, proxy for Grocery Manufacturers of America (Pg. 53)  
Lynn Coody, Organic Ag Systems Consulting, (Pg. 64)  
Liana Hoode, Organic Policy Coordinator, National Campaign for Sustainable Ag.(Pg. 70)  
Mark Kastel, Cornucopia Institute, proxy for Mary Ellen Franklin, Vermont Dairy Producer, (Pg. 78)  
Arthur Harvey, farmer (Pg. 88)  
David Engel, Dairy Farmer, Executive Director, MOSA, (Pg. 92)  
Brian Baker, OMRI, (Pg. 94)  
Jay Feldman, Beyond Pesticides, (Pg. 99)  
Joe Dickson, (Pg. 105)  
Leslie Zuck, Pennsylvania Certified Organic, (Pg. 109)  
Cissy Bowman, CEO, Indiana Certified Organic, (Pg. 120)  
Michael McGuffin, President, American Herbal Products Association (Pg. 124)  
Pete Gonzales, Executive Director, Oregon Tilth, (Pg. 127)  
Jim Pierce, Organic Valley, (Pg. 128)

Public Comment Closed

### **CLOSING REMARKS**

The Chair announced for the record that the Board adopted a recommendation for rule change; however, he wanted to make it clear, especially for the farmers that the Board recommended a couple of rule changes, but they are not enforceable until they've gone through the whole notice and comment rulemaking process.

Ms. Caroe moved to adjourned, and Mr. Carter seconded. Approved unanimously.